

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

Civil Action No. 12-CV-3090

Ronald D. Madden

Plaintiff,

vs.

Anton Antonov &

AV Transportation, Inc.

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Ronald D. Madden, by and through his attorneys, Donald F. D'Antuono, Schnell & D'Antuono, Denver, Colorado and Patrick S. O'Brien and Jeffrey E. Chod, O'Brien Chod, LLC, St. Louis, Missouri, for his Complaint against Anton Antonov and AV Transportation, a corporation, alleges and states as follows:

GENERAL AND JURISDICTIONAL ALLEGATIONS

1. Plaintiff Ronald D. Madden, at all times material, has been a citizen and resident of the City of Alliance, County of Box Butte, in the State of Nebraska.

2. Defendant AV Transportation Company is a corporation based in the City of North Miami Beach, County of Miami-Dade, State of Florida. Defendant Anton Antonov is an individual who, upon information and belief, resides in City of North Miami Beach, County of Miami-Dade, State of Florida. Defendant Anton Antonov, upon information and belief, either wholly or

substantially owns and operates Defendant AV Transportation, Inc, and does long haul driving as part and parcel of the business of his wholly owned or substantially owned corporation. Upon information and belief, the acts and omissions of Defendant Anton Antonov were within the course and scope of his employment with Defendant AV Transportation, Inc., and are therefore imputable by law to AV Transportation, Inc. When reference herein is made to Defendant, the same shall mean and pertain to either Defendant Anton Antonov or Defendant AV Transportation, Inc, as the case may be, for purposes of denominating the relevant and legally correct defendant(s) in this civil action.

3. At all times herein mentioned, Defendant was an interstate carrier by road and was engaged in interstate transportation and commerce.

4. The personal injury incident which is the subject matter of this Complaint occurred on or about February 15, 2012, in the County of Custer, State of Nebraska.

5. Jurisdiction of this Court is proper pursuant to 42 U.S.C. ' 1332 to the extent this civil action involves controversy between parties of different states and to the extent Plaintiff's allegations of damages as sustained are in excess of \$75,000.

6. On or about February 15, 2012, Plaintiff was engaged in the lawful operation of a railway locomotive traveling northwest bound towards a crossing at Road 429.

7. At such time and place, a truck owned and operated by Defendant was in the process of crossing over the railway track from Highway 2 to Road 429. Defendant was carrying a very large Caterpillar Telehandler on a trailer.

8. At such time and place, Defendant operated his vehicle so as to cause the locomotive operated by Plaintiff to violently collide with the trailer and Caterpillar Telehandler transported by Defendant.

FIRST CLAIM FOR RELIEF
(Negligence)

7. Plaintiff realleges paragraphs 1-8.

8. Defendant's conduct, in the circumstances, was careless and negligent in the following particulars:

- a. failure to properly visualize the roadway in front of Defendant's vehicle;
- b. failure to properly lead yield to a railway locomotive which had the right of way;
- c. failure to maintain a motor vehicle at a proper and safe speed and under sufficient and necessary control;
- d. Failure to obey various Nebraska statutes and Federal motor carrier laws and regulations as well as various county and municipal ordinances, concerning keeping a proper lookout, yielding to railway locomotives, operating a motor vehicle in a reasonable and safe manner, and in other pertinent respects.

9. As a direct and proximate result of Defendant's conduct, Plaintiff Ronald D. Madden has suffered severe injuries to his head, eyes, neck, back, and other body parts and resulting damages including, but not limited to, past, present, and future pain suffering, loss of enjoyment of life, temporary total disability, permanent partial disability, mental anguish, medical and hospital expenses as well as rehabilitation expenses, loss of earnings and impairment of earning capacity.

WHEREFORE, Plaintiff Ronald Madden requests judgment against Defendants Anton Antonov & AV Transportation, Inc., in an amount to be determined at trial of this civil action, together with all prejudgment and postjudgment as provided for by Nebraska law, and together with Plaintiff's litigation costs and expenditures incurred herein, as well as such other and further relief as

this Court may deem proper.

PLAINTIFF DEMANDS TRIAL BY JURY.

Dated this 4th day of May, 2012.

Respectfully submitted,

/s/ Donald F. D'Antuono

Donald F. D'Antuono #8940
SCHNELL & D'ANTUONO
1120 Lincoln Street, Suite 1304
Denver, CO 80203
(303) 830-2200

-and-

O'BRIEN CHOD, LLC
Patrick S. O'Brien, Esq.
Jeffrey E. Chod, Esq.
326 South 21st Street, Suite 306
St. Louis, Missouri 63103
Telephone: (314) 621-7474
E-mail: jchod@obrienchod.com
E-mail: pobrien@obrienchod.com

ATTORNEYS FOR PLAINTIFF